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MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

IN RE THE ESTABLISHMENT OF A  
DISTRICT STANDING MASTER  
FOR ALL DEPARTMENTS OF  
DISTRICT COURT

Cause No.: SB-2008-48

2017 AMENDED CHARTER ORDER  
RE STANDING MASTER

The Eighth Judicial District Court hereby establishes a District Standing Master for Departments A, B, C, and D of the Court. This Order is governed by the provisions of §§ 3-5-124 through 3-5-126, MCA, which define the jurisdictional charter, structure, and general procedure for proceedings before the District Standing Master.

**1. Purpose Of Establishment Of Family Law Standing Master.**

This District is overburdened and understaffed under existing and contemplated civil and criminal caseloads. The Montana Supreme Court has authorized and funded a full-time Standing Master position to jointly serve all four Departments (A, B, C, and D) of this Court. Accordingly, this Court hereby establishes a District Standing Master for Departments A, B, C, and D to make the Court more accessible and responsive to the parties in all types of cases.

18

## **2. Enabling Authority.**

Sections 3-5-114, MCA, *et. seq.* govern Standing Masters. *See also* M.R.Civ.P. Rule 53 (2015); §41-3-422(15), MCA. The Court has authority to refer civil cases to a standing master without the consent of the parties, and to refer matters to the Master for disposition either by standing order or on a case-by-case. § 3-5-124, MCA; M.R.Civ. P. Rule 53 (2015). Similarly, the Court has broad discretion to specify or limit the scope of the standing master's. *Id.*

The Court hereby adopts the criteria of §§ 3-5-114 and 41-3-422(15), MCA, as the qualifications for the District Standing Master and the provisions of this Order as the procedure for establishing and appointing the District Standing Master.

## **3. General Structure – Scope Of Authority.**

By written order, the presiding judges of this District may unanimously appoint a qualified person to serve as the District Standing Master. §§ 3-5-124 through 3-5-126, MCA; Local Rule 1. Upon appointment, the District Standing Master shall serve at the sole discretion of each of the presiding judges of Departments A, B, C, and D.<sup>1</sup>

The District Standing Master shall, upon order of referral, be responsible for the following matters:

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<sup>1</sup> The terms of this order do not create an express or implied employment or contractual relationship between the Court and the District Standing Master. The District Standing Master is an employee of the State subject to the independent and discretionary authority of the Eighth Judicial District Court through its judges.

- (A) family law and protective proceedings under Title 40, MCA;
- (B) child abuse and neglect proceedings under Title 41, Chapter 3, MCA, except for proceedings to terminate parental rights;
- (C) guardianship and conservatorship proceedings under Title 72, Chapter 5, MCA; and
- (D) other types of proceedings in the discretion of the referring court.

The Court hereby charges, delegates, vests, and confers the following specific and general powers, authority, and duties upon the District Standing Master under this order:

- (1) to assume jurisdiction over and adjudicate all procedural and substantive aspects of proceedings referred for disposition;
- (2) to schedule, compel attendance at, and conduct all evidentiary hearings, bench trials, oral arguments, or other proceedings required, necessary, or proper;
- (3) to administer oaths and issue subpoenas on behalf of the court in the manner otherwise provided by law;
- (4) to compel and take evidence and rule on its admissibility as required, necessary, or proper;
- (5) to issue preliminary orders, including but not limited to scheduling and discovery orders, in the same manner as otherwise provided by law for district courts;
- (6) to control and regulate all proceedings before the Master; and

- (7) to perform any other lawful acts or measures necessary or proper within the scope of this standing order in the same manner as the District Court within the lawful the scope and authority of the law.

Upon referral, the District Standing Master shall apply the Montana Rules of Civil Procedure, Montana Rules of Evidence, Montana Uniform District Court Rules, and Local Rules of this district. Pursuant to § 3-5-124(2)(a), MCA, and M.R.Civ.P. Rule 53(c)(1) (2011) (as applicable to standing masters), the referring court may, by way of the order of referral, more particularly specify, limit, or expand the scope of the District Standing Master's authority, function, or duty in a particular case. In the interests of justice in the sole discretion of the court, the referring court may rescind a case referral and reassume primary administration of the case.

#### **4. General Procedure.**

(A) Referral And Initial Meeting. Any judge of this District, in his or her sole discretion, may by order refer cases to the District Standing Master. The Master shall set a "meeting of the parties or their attorneys" within 20 days of the order of referral. M.R.Civ.P. Rule 16.

(B) When Hearing Not Required. When a hearing is not otherwise required by law, the District Standing Master may file and serve an appropriate order and judgment.

(C) When Hearing Required. When a hearing is required, the Master shall notice and conduct a hearing as soon as possible.

(D) Record, Filing Procedure, And Clerk Of Court Duty.

The Master shall record all contested proceedings by certified court reporter or audio or video recording suitable for verbatim transcription. The Master shall file the evidence and recording of all contested proceedings with the Clerk of District Court. The Clerk of District Court shall attend all contested proceedings before the District Standing Master and act as the clerk of proceedings in the same way clerks do before district court judges. The parties and Clerk of Court shall file all pleadings, motions, briefs, and other filings in the court file. The parties shall strictly comply with Local Rule 7(b).

(E) Form Of Decision. The Master shall file and serve written findings of fact, conclusions of law, and a dispositive order for all contested proceedings where factual issues are tried. The Master shall file and serve a dispositive written decision and order for all contested proceedings where only legal questions are raised.

(F) Filing Of "Master's Report" And Objections Procedure.

Other than scheduling or procedural orders and rulings, the Master's orders on contested proceedings shall constitute the "Master's Report." §§ 3-5-125(1) and 3-5-126, MCA. Filing of the Master's Report triggers the 10 day objections and district court review deadline under § 3-5-126(2), MCA. Montana Uniform District Court Rule 2 and Local Rule 7(b) strictly apply to procedure and substance of objections to the Master's Report under § 3-5-126(2), MCA.

Cursory or general objections to the Master's Report are invalid and insufficient to trigger judicial review of the Master's Report. Objections must comply with § 3-5-126(2), MCA; M.R.Civ.P. Rule 7(b); and Montana Uniform District Court Rule 2. Failure to comply with these requirements may, in the discretion of the court, result in an adverse summary ruling. Otherwise timely filed objections to the Master's Report shall not be deemed ripe and fully submitted for hearing and review until one of the parties has filed and served a notice of issue upon the court. Local Rule 7(b).

(G) Effect/Enforceability Of Report As Court Order. Upon filing and except as otherwise expressly stayed by written order of the Master or the Court, the Master's Report shall be immediately effective and enforceable as an order of the Court. *Sua sponte* or on motion, the Master or the Court may stay execution of the Master's Report pending expiration of the 10 day objection deadline, or entry of a final judgment. Mere timely objections or a motion for review shall not stay enforceability of a Master's Report.

Absent a timely objection, a Master's Report shall immediately become a dispositive final judgment of the Court upon expiration of the objections deadline. Upon filing of a timely-filed objection, expiration of response deadlines under Montana Uniform District Court Rule 2, and notice of issue, the Court shall set and conduct a hearing.

(H) Standard Of District Court Review. Section 3-5-126(2), MCA, governs judicial review.

**5. Decorum, Orders, And Contempt.**

All parties and counsel shall formally treat and address the Standing Master with the same formality, decorum, and respect required and customary in proceedings before a presiding district judge and in accordance with Local Rule 20. The Court may address, remedy, and sanction or punish any violation of this order as a contempt of court. This provision does not preclude, limit, or impair the authority of the District Standing Master to otherwise address and remedy contempts within the authorized scope of the master's authority under this order.

**6. Prior Charter Orders Superseded.**

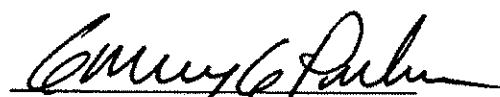
This Order is effective immediately, superseding all prior orders filed under Cause No. SB-2008-48-xx, including but not limited to, *Charter Order Establishing District Standing Master*, Cause No. SB-2008-48-6, April 27, 2015. As a procedural order, this Order is also retroactively effective immediately to all cases currently pending before the District Standing Master under a prior referral.

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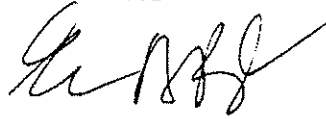
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SO ORDERED this 8 day of June, 2017.

MONTANA 8<sup>TH</sup> JUDICIAL DISTRICT COURT



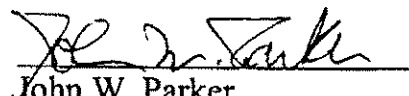
Gregory G. Pinski  
District Judge, Dept. A



Elizabeth A. Best  
District Judge, Dept. B



John A. Kutzman  
District Judge, Dept. C



John W. Parker  
District Judge, Dept. D

CC: Kathleen Jensen

CERTIFICATE OF MAILING

This is to certify that the foregoing was  
duly served by mail upon counsel of  
record at their address this 14<sup>th</sup>  
day of June, 2017

TAYE MCWILLIAMS, CLERK OF COURT  
By [Signature] DEPUTY